



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 130408348-3835-02]**

**RIN 0648-XE968**

**Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2016 Management**

**Area 1A Seasonal Annual Catch Limit Harvested**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is closing the directed fishery for Atlantic herring in Herring Management Area 1A, based on a projection that a prescribed trigger for that area has been reached. Federally permitted vessels may not fish for, possess, transfer, receive, land, or sell more than an incidental amount of Atlantic herring in or from Area 1A through December 31, 2016, and federally permitted dealers may not purchase more than this incidental amount of herring from federally permitted vessels for the duration of this action. This action is necessary to comply with the regulations implementing the Atlantic Herring Fishery Management Plan and is intended to prevent over harvest in Area 1A.

**DATES:** Effective 00:01 hr local time, October 18, 2016, through December 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Shannah Jaburek, Fishery Management Specialist, (978) 282-8456.

**SUPPLEMENTARY INFORMATION:** Regulations governing the Atlantic herring fishery

can be found at 50 CFR part 648, including requirements for setting annual catch allocations. NMFS set the 2016 Area 1A sub-annual catch limit (ACL) at 30,102 mt, based on an initial 2016 sub-ACL allocation of 31,200 mt, minus a deduction of 936 mt for research set-aside catch, plus an increase of 133 mt to account for unharvested 2014 catch. Additionally, NMFS further reduced the Area 1A sub-ACL of 30,102 mt by 295 mt to allow for the fixed gear set-aside, that, if unharvested, will be added back into the Area 1A sub-ACL after November 1. NMFS established these values in the 2013 through 2015 specifications (78 FR 61828, October 1, 2013) and a final rule implementing sub-ACL adjustments for 2016 (81 FR 12420, March 9, 2015). For Area 1A, NMFS restricts herring catch to the seasonal period from June 1 through December 31. NMFS prohibits vessels from catching herring during the seasonal period from January 1 through May 31.

The Administrator, Greater Atlantic Region, NMFS (Regional Administrator), monitors the herring fishery catch in each of the management areas based on vessel and dealer reports, state data, and other available information. The regulations at § 648.201 require that when Regional Administrator projects that herring catch will reach 92 percent of the sub-ACL allocated in the Area 1A seasonal management area designated in the Atlantic Herring Fishery Management Plan (FMP), NMFS must prohibit, through notification in the **Federal Register**, herring vessel permit holders from fishing for, possessing, transferring, receiving, landing, or selling more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from the specified management area for the remainder of the fishing year.

The Regional Administrator has determined, based on vessel and dealer reports, state data, and other available information, that the herring fleet will have caught 92 percent of the herring sub-ACL allocated to Area 1A by October 18, 2016. Therefore, effective 00:01 hr local

time, October 18, 2016, federally permitted vessels may not fish for, catch, possess, transfer, land, or sell more than 2,000 lb (907.2 kg) of herring per trip or calendar day, in or from Area 1A through December 31, 2016. With one exception, vessels that have entered port before 00:01 hr local time, October 18, 2016, may land and sell more than 2,000 lb (907.2 kg) of herring from Area 1A from that trip. The exception provides that a vessel may transit through Area 1A with more than 2,000 lb (907.2 kg) of herring on board, provided all herring was caught outside of Area 1A and all fishing gear is stowed and not available for immediate use as defined by § 648.2. In addition, all herring vessels must land in accordance with state landing restrictions.

Effective 00:01 hr local time, October 18, 2016, federally permitted dealers may not receive herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2 kg) of herring from Area 1A through 2400 hr local time, December 31, 2016, unless it is from a trip landed by a vessel that entered port before 00:01 hr local time, October 18, 2016, and that catch is landed in accordance with state regulations.

### **Classification**

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest and impracticable. This action restricts the catch of herring in Area 1A for the remainder of the fishing year. Data indicating the herring fleet will have landed at least 92 percent of the 2016 sub-ACL allocated to Area 1A have only recently become available. Once these data become available, NMFS is required by Federal regulation to implement a 2,000-lb (907.2-kg) herring possession limit for Area 1A through December 31, 2016. The regulations at § 648.201(a)(1)(i)

require such action to ensure that herring vessels do not exceed the 2016 sub-ACL allocated to Area 1A. If implementation of this closure is delayed to solicit prior public comment, the sub-ACL for Area 1A for this fishing year will likely be exceeded, thereby undermining the conservation objectives of the FMP. If sub-ACLs are exceeded, the excess must also be deducted from a future sub-ACL and would reduce future fishing opportunities. NMFS further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: October 13, 2016

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Emily H. Menashes,

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National Marine Fisheries Service.

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